

MOUNTAIN HOME SCHOOL DISTRICT #193
STUDENT TRANSPORTATION PROPOSED CONTRACT
FOR YEARS 2014-2018

AGREEMENT

THIS AGREEMENT dated July 1, 2013 in the County of Elmore, State of Idaho, by and between the Mountain Home School District, hereinafter referred to as the **DISTRICT**, AND Caldwell Transportation Company, 3503 South 10th Avenue Caldwell ID 83605, hereinafter referred to as **CONTRACTOR**.

RECITAL

The SCHOOL BOARD OF MOUNTAIN HOME SCHOOL DISTRICT #193 is interested in entering into a contract for the purpose of providing adequate transportation services for the school children of MOUNTAIN HOME SCHOOL DISTRICT #193 in conformity with local policies and legal requirements for a period of five (5) years.

CONTRACTOR has bid for the services sought by the BOARD, and CONTRACTOR'S bid has been found by the BOARD to be acceptable through BOARD action from the June 18, 2013, BOARD meeting.

In consideration of the foregoing and for other valuable consideration, the BOARD and CONTRACTOR hereby mutually agree as follows:

Section One

GENERAL UNDERSTANDING AND SCOPE OF AGREEMENT – The following shall be deemed to be part of this contract:

Contractor shall furnish, operate, and maintain all equipment necessary for the transportation of pupils to and from schools maintained by the District, or on any other District approved trips, including the use of said equipment during a District declared emergency. The Contractor will at all times abide by the criteria stipulated by the requirements specified by Idaho Code in sections 33-1501 to 33-1512. The Contractor will also abide by the criteria specified in the most recent "Standards for Idaho School Buses and Operations" book as distributed by the State Department of Education, Pupil Transportation Bureau as of the date of this contract.

- a. The advertisement for bids;
- b. The bid by contractor;
- c. The performance bond;
- d. The notice of award;
- e. The agreement contained in this contract and recited;
- f. All provisions required by law to be inserted in this contract, whether actually inserted or not.

All of the above taken as a whole shall constitute the contract document.

Section Two

DEFINITIONS – The following words and expressions or pronouns used in substitute therefore, shall, wherever they appear in this contract, be construed as follows, unless a different meaning is clear from the context.

- a. **Arbitration** shall mean the reference of any dispute concerning this agreement to a mutually agreed upon referee: the finding and award by the referee shall be binding on the parties.
- b. **Board** shall mean the Board of Trustees of Mountain Home School District #193; or its duly authorized representative.
- c. **Contract or contract documents** shall mean each of the various parts the contract referred to in Section 1, both as a whole and severally.
- d. **Contractor** shall mean Caldwell Transportation Company whether operating as a corporation firm or individual, or any combination of same, and Contractor's success of personal representatives, executors, administrators, and assigns, and any person, firm, or corporation who or which shall at any time be substituted in Contractor's place.
- e. **Law or laws** shall mean the Constitution of Idaho, the statues of Idaho, and any ordinance, rule, or regulation having the force of law that is applicable to this contract.
- f. **Notice to the Contractor** shall mean written notice deposited in the United States mail addressed to Contractor at 3503 South 10th Caldwell Idaho 83605 or to such other address as may appear in an instrument executed by contractor for that purpose and delivered to the Board as a change of address. Notice to the Board of Education means written notice delivered to the chairman of the Board or his/her designee. Nothing contained in this agreement shall, however, be deemed to preclude or render inoperative the service of any notice, direction, or other communication to contractor personally, or if contract is a Corporation, on any officer or any director of Contractor.

Section Three

TERM OF AGREEMENT – This contract shall be effective from July 1, 2013 to June 30, 2014 and shall continue for a total period of five (5) years, and shall end on June 30, 2018, unless sooner terminated in accordance with the provisions of this contract.

This Agreement may be renewed for an additional five year period beginning July 1, 2018 and continuing through June 30, 2023 by mutual agreement between the District and Contractor in accordance with Idaho Code. Renewal consideration will be contingent upon Contractor's performance during the previous years, including conformance with all aspects of this Agreement and any amendments thereto. This contract may be renewed without bid for an additional five (5) years upon satisfactory performance during the first five year term.

Either party will have the option to terminate the Agreement without cause as of the anniversary date of each Agreement year. Either party may exercise this option by mailing written notice to the remaining party at least ninety (90) days prior to June 1, at which date termination will be effective.

On or before the first day of each year during the term of this Agreement, Contractor, at the discretion of the District, shall furnish and maintain in full force and effect during the succeeding school year a performance bond in an amount equal to the total amount of the Contractor's yearly contract as security for the faithful performance of the Contractor's commitment during the school year unless waived in writing by the District prior to the school year.

This contract may be modified by changes in legislature or funding restraints as required.

Section Four

PERFORMANCE OF WORK - Contractor shall perform the services and furnish the equipment and personnel as provided in the specifications, and shall do all things necessary or proper for the performance and completion of the work required by this contract in the manner and at the times provided in the bid and specifications.

4.1 Timeline Schedule – The Contractor, within thirty (30) days after award of Agreement shall furnish the District with a timeline schedule detailing the following:

- a. Acquisition of necessary equipment
- b. Acquisition of facilities
- c. Hiring of supervisory personnel
- d. Hiring and training of drivers and mechanics
- e. Driver route orientation (dry runs)
- f. Contractor field service personnel assignment

Items a, b, c, and d must be accomplished at least 2 weeks prior to the first official day. It shall be specifically provided and agreed that throughout the Agreement, time shall be of the essence in the performance of the Agreement.

4.2 Agreement Interpretation – Should any questions arise as to the meaning and intent of the Agreement, the matter shall be referred to the District who shall decide the true meaning and intent of the Agreement and the decision shall be final and conclusive.

4.3 Agreement of Parties – This document constitutes the entire Agreement of the parties. No other agreements, oral or written, pertaining to the performance under this Agreement, exist between the parties. This Agreement can be modified only by an agreement in writing, signed by both parties.

4.4 Waiver – No waiver of a breach of any provision of the Agreement by the District shall constitute a waiver of any other breach of such provision. Failure of the District to enforce at any time, or from time to time, any provisions of the Agreement shall not be construed as a waiver thereof. The remedies herein reserved shall be cumulative and additional to any other remedies in law or equity.

- 4.5 Attorney Fees – If either party hereto becomes involved in litigation arising out of this Agreement or the performance thereof, the court in such litigation, or in a separate suit, shall award reasonable costs and expenses, including attorney fees, to the party justly entitled thereto. In awarding attorney fees, the court will not be bound by any court fee schedule, but shall if it is in the interest of justice to do so, award the full amount of costs, expenses, and attorney fees paid or incurred in good faith.
- 4.6 Compliance with Civil Rights – Contractor hereby assures that he/she will comply with Sub-Chapter VI of the Civil Rights Act of 1964, 42 USC Sections 2000e through 2000e (17), to the end that no person shall, on the grounds of race, creed, color, sex, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement or under any project, program, or activity by this Agreement.
- 4.7 Severability – The District reserves the right to accept, reject, or select any portion of any or all bids and to waive any technicality.
- 4.8 Type and Age of Buses – At no time during the lifetime of this Agreement shall any passenger or transit bus be more than twelve (12) model years old. This includes any spare buses not used in routine routes but available for either academic or extra-curricular student transport. Two buses will be transit buses with 84 passenger capacity with under floor storage. These buses will be available for field trips as needed. Combined fleet age shall not exceed an average of 7 years at any point in the contract. Bus modifications will be made to accommodate student’s needs that are driven by IEP requirements as communicated to the Contractor. Bus modifications will be paid for by the District. There will be spare buses available for non-academic events for the transport of students. The spare bus fleet will number at least fifteen percent that of the student transportation fleet. At least 25% of the bus fleet will possess automatic or drop-down chains.

Approval in writing must be received from the District prior to assignment of said buses. All buses must meet age and/or mileage criteria in order to be acceptable for use under this Agreement. All buses shall be properly certified by the State of Idaho and meet all requirements of the State Department of Education Rules and Regulations.

All buses will be equipped with two cameras and recorders for the safety of the students and/or driver. All cameras and equipment will be purchased, installed, and maintained by the Contractor. District reserves the right to provide insight into a recommend camera system, duration of retention of recorded video, and other aspects of video documentation.

- 4.9 Required Modification of Equipment – Any installation or modification of equipment required by a change in law or regulation shall be made by the Contractor without notification or prior approval by the District. Such required installation or modification costs shall be borne by the Contractor. Equipment modifications may also result from a District IEP team meeting in conjunction with the Individuals with Disabilities Education Act (IDEA). Modifications to the contract due to additional costs as a result of student needs will be by mutual agreement of both parties.
- 4.10 Two-Way Radios – Contractor will provide two-way radio equipment for each bus servicing the Agreement. Radios must be maintained in good working condition at all times during the term of the Agreement. Failure to maintain each radio or each bus in good working order at all times when such buses are being assigned to transport students shall be a material breach of the Contractor’s obligations pursuant to the Agreement. (Citizen band radios are not acceptable)
- 4.11 Seat Belts, Car Seats, and Harnesses – As required by the District, seat belts, car seats, or harness restraints shall be provided for each special education passenger requiring such devices. It shall be the driver’s responsibility to see that such seat belts, car seats, or restraints are properly adjusted and fastened as soon as the pupil occupies his seat and for the duration of the trip (including wheelchair pupils).
- 4.12 Standby Buses and Bus Drivers – The Contractor shall keep standby bus equipment and qualified bus drivers available to assure that uninterrupted service can be provided in the event of mechanical breakdowns or driver absenteeism. Standby buses shall meet the same requirements as buses assigned scheduled runs. Contractor shall maintain staff as required for effective management and supervision of the transportation service provided to the District.
- 4.13 Contractor’s Facilities/Maintenance – Contractor shall establish and maintain a maintenance facility, as approved by the District, equipped and staffed as required to perform preventive maintenance and repairs to vehicles on an as-need basis.
- 4.14 Contractor’s Facilities /Location – Facilities shall be maintained in Elmore County within five (5) miles of the service area, as approved by the District.
- 4.15 Contractor’s Facilities/Administrative and Support Staff – Contractor shall provide secure facilities for administrative and support staff assigned to transportation services provided for the District. These facilities shall be at or near the parking/maintenance facility in order that Contractor’s personnel are aware of the operational aspects of the work at all times.
- 4.16 Dry-Runs – Dry-runs will be conducted before the beginning of the school year for each year the Agreement is in effect. All routes will be run as though it were the first day of school. A driver orientation will be conducted for all drivers who

will be assigned to perform services for the school district. The driver orientation shall include, but will not be limited to, pupil management, handicapped sensitivity, dealing with parents, relationships with the school and general public, discipline on the school bus, and other pertinent information. The cost of said dry-runs and driver orientation shall be paid for the District at actual mileage times the Contractor rate per-route mile.

Section Five

DELEGATION OF AUTHORITY – The Board hereby delegates to Contractor the necessary authority to supervise and control students on the buses operated by Contractor while they are en route under such rules as are adopted by the Board. However, this authorization shall not include the right to administer corporal punishment or the right to eject any offender under circumstances that may or are likely to result in injury or danger to the offender.

The school bus driver is responsible for rider discipline on the school bus as specified by law. The Contractor shall provide for regular reporting to the District of incidents of misconduct on the bus and corrective action taken.

No pupil will be suspended from a school bus without prior permission of the District. The Contractor shall post the rules of behavior on all buses.

Section Six

DESIGNATION OF STUDENTS – Contractor shall transport only those students designated by the Board.

Section Seven

SCHOOL CLOSING – The Board agrees to inform Contractor as soon as reasonably possible when schools are to be closed because of weather or by reason of any other conditions that arise.

The District shall not be obligated to pay for any services hereunder on those days when the schools and classes of the District are closed to ensure the health and safety of pupil, or for any other lawful reason, provided that the District has notified Contractor.

Section Eight

SCHEDULE DETAILS – A description of each route shall be reviewed with the District and Contractor prior to the start of each school year, together with a time schedule and the designated stops to be observed on each route. Changes in the routes, time schedules, or designated stops may be made, and any of the routes may be eliminated or consolidated at the discretion of the Board or its duly authorized agent to meet changed conditions. However, no change, elimination, or consolidation, except to meet unexpected or emergency situations, will be made until after Contractor has been given an opportunity to confer with the Board or its authorized representatives with respect to the change, elimination, or consolidation at least five (5) days in advance of the change, elimination, or consolidation. Adjustments in the sums to be paid to Contractor will be made for any increase or decrease in mileage resulting from a change, elimination, or consolidation of routes or additional services for high school or elementary

school in the nature of school-sponsored activities as provided in the specifications. The Board may, from time to time, establish regulations to be observed by Contractor in connection with all details incidental to the operations of the routes, including starting times, bus stops, discipline on the buses, and any situations that may, from time to time, arise in the performance of the contract.

The Contractor shall arrange bus routes and schedules to meet the various center schedules including, where necessary, more than one starting and dismissal time. Such routes and schedules shall provide for modified school days and differentiated calendars adopted by the various schools servicing students being transported under this Agreement. Every effort is to be made by the Contractor in good faith to maintain maximum bus and driver utilization insofar as feasibility permits.

If at any time during the term of the Agreement it is determined that services may be improved by revisions to routing, rescheduling, or bus assignment, the District shall notify the Contractor who shall plan and institute such changes. The District shall retain the right to change routes or drivers at any time. Increased or decreased bus capacities or services necessitated by facility, program, or population changes may be authorized by the District. Any revisions so adopted shall be deemed an ordinary part of the Agreement.

All routes, schedules, and bus stops must be approved by the District and are not to be revised without authorization. Up-to-date route sheets shall be on file in the dispatch office and the District Office. Routes will generally remain the same each year. There are no known or anticipated changes for the upcoming contract bid cycle.

- 8.1 Field Trips and Other School-Sponsored Activities – Contractor agrees to provide transportation service for field trips as may be authorized by the District. For field trips, the District will contact Contractor at least ten (10) calendar-days prior to the scheduled activity and request Contractor to provide equipment and personnel for the activity. In the event the Contractor does not have the required equipment and/or personnel available, the District may contract another transportation firm and request the service.
- 8.2 Cancellation of Scheduled Field Trips – The District shall have the option to cancel any scheduled field trip upon the District’s notification to the Contractor. The District will pay the Contractor \$40.00 when field trips are not cancelled one hour before the scheduled time of student pick up.
- 8.3 Other School Activities – From time to time, various school groups, athletic teams, and other District schools serviced by the District may request service from the Contractor. Such services are to be billed directly to the group or organization requesting such services and not to the District.

Section Nine

RESPONSIBILITY FOR STUDENTS – Contractor shall be fully responsible for the care and supervision of students during their period of transportation. The transportation of a student

shall be deemed to have begun when the student boards the school bus after the arrival of the bus at the designated stop, and shall be deemed to have ended when a student has completed alighting from the bus at a reasonably safe place in which to alight in view of the circumstances then prevailing.

Section Ten

COMPLIANCE WITH LAWS AND REGULATIONS - Equipment and services covered by the Agreement must comply with applicable laws, ordinances, and legal requirements of Idaho Code and Department of Education Rules and Regulations.

Contractor and Contractor's drivers are required to comply with the laws of Idaho, and all regulations or requirements of the State Motor Vehicle Department, Public Utilities Commission, and the State and local Boards of Education or any of them. Furthermore, all school bus drivers employed by the Contractor must submit to a criminal history background check pursuant to Idaho Code section 33-130.

- 10.1 Certificate – All drivers employed by the Contractor to provide service to the District must have and maintain valid Idaho permits to drive a bus and a commercial driver's license.
- 10.2 Health Requirements – Each school bus driver employed by the Contractor to provide service to the District shall be in good health and shall obtain a school bus driver's physical per State requirements.
- 10.3 Moral Character – Contractor recognizes that for the protection of pupils, drivers and other persons who have contact with the pupils must be of stable personality and high moral character. Contractor shall assure that all Contractors' personnel meet these qualifications. Contractor will not allow any person to drive a school bus whose conduct might in any way expose a pupil to any impropriety of word or conduct, nor shall Contractor allow any person to drive a school bus who is not, at any time, in a condition of mental and emotional stability. The use of drugs, alcohol, and tobacco while driving a school bus is prohibited. Firearms, knives, and other weapons are prohibited on school buses.
- 10.4 Uniforms – All drivers shall be well groomed at all times and shall wear a Contractor-provided uniform shirt or windbreaker and an identification badge. Contractor shall require all drivers to have an up-to-date route sheet, area map, and a timepiece with them while on duty so that the driver can maintain established time schedules.
- 10.5 Changes in Assignments – Drivers shall be permanently assigned to the same bus route whenever possible.

- 10.6 Pre-Employment Screening – Contractor shall develop and implement a pre-employment screening program for all candidates for employment who do not have prior experience driving a school bus and/or handling handicapped pupils. The screening program shall be designed to assist the Contractor in determining qualifications and suitability of candidates for assignment to school bus transportation services.
- 10.7 Safety and Special Instruction – Contractor shall establish and maintain a safety program for drivers employed by Contractor. All new drivers shall complete the Idaho School Bus Drivers Development Series, have ten (10) hours observation and behind-the-wheel training, and demonstrate driving proficiency before being allowed to drive a school bus loaded with students (SBE Rule: 08:02.G.4,1.a.). Contractor shall supply the District with a schedule of safety programs and rosters of attendance. The District may also conduct special training sessions at one or more of the Contractor’s regularly scheduled safety meetings or may provide Contractor with curriculum materials required for contractor to provide the special training. All school bus drivers transporting pupils shall be capable of communicating basic bus rules, disciplinary actions, and emergency instructions.

Contractor shall instruct drivers regarding the rules and regulations applicable to safe driving on school grounds and shall ensure that Contractor’s drivers exercise extreme caution at times when pupils are present on the school grounds. Drivers and/or aides must supervise pupils on the grounds to ensure safe ingress and egress from school buses.

- 10.8 Evaluations – Drivers shall be evaluated at least once each semester for the purpose of observing their driving practices with respect to safety; mechanical operation; conformance with laws; policies and regulations; adherence to established routes and schedules; handling of pupils; and other factors inherent in the transportation of pupils.

Copies of the evaluations shall be maintained by the Contractor during the term of the driver’s employment by the Contractor, plus one (1) year, and shall be available for review by the District upon request. All drivers assigned to perform services under the Agreement shall maintain a minimum evaluation rating of satisfactory in all evaluation categories.

Each and every provision of law and clause required by law to be inserted in the Agreement shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted or is not correctly inserted, upon application of either party, the Agreement shall forthwith be physically amended to make such insertion or correction.

Section Eleven

PAYMENT – The contract shall be for five (5) years, from July 1, 2013 to June 30, 2018. Prices are for the first year, with compensation for the second, third, fourth, and fifth years to be based on the percentage of increase (or decrease) in the Consumer Price Index as described below.

The percent of increase (or decrease) in the Consumer Price Index –West Urban –All Items Less Energy (as promulgated by the Bureau of Labor Statistics of the U.S. Department of Labor) shall be the percent of increase (or decrease) in all categories of the contract for the second year. The C.P.I. for computational purposes shall have an effective date beginning July 1, 2013. If the percent of the C.P.I. goes up or down from July 1, 2013, to June 30, 2014, the rates for the second year of the contract will be adjusted accordingly. The same procedure will be followed to determine the rate charges for the third, fourth, and fifth years of the contract.

The District transportations costs will be expected to be under the State Transportation Cap allowance. This cap is set at 103% of the State average cost per mile or cost per rider as determined annually by the State Department of Education. The Contractor will agree to participate in efforts to reduce costs to below the State cap.

- 11.1 **Payment to Contractor** – District shall pay to the Contractor as full consideration for the faithful performance of the Agreement, subject to any additions or deductions as provided in the contract document, the amounts set forth in the payment rate schedule attached hereto and incorporated by reference.
- 11.2 **Payment for Service** – Not later than the tenth (10th) day of each month, the Contractor shall submit invoices in the form and the number required by the District for all services under the Agreement. Payment to the Contractor shall be based on administrative costs and variable costs by route and route mileage. The District shall make every effort to pay within thirty (30) days of services. Subject to acceptance and approval by the District, payment for such services will be made within a reasonable time thereafter.

Section Twelve

INSPECTION – The Board reserves the right for its members or duly authorized agents to inspect any and all buses and their operation by riding as passengers or by other reasonable means.

The Contractor shall keep and maintain all buses in good operating, safe running, clean, and sanitary condition. In order to insure the same, the Contractor will make each bus available in the Contractor's garage for inspection by the District annually. The District may inspect bus vehicles at any time. Inspection may be conducted at any time during a regular run. Dates and times of such inspections will not be posted in advance.

- 12.1 **AUDIT** – The District shall have the right to audit in such a manner and at all reasonable times as it deems appropriate, all activities of the Contractor arising in the

course of its undertakings under this Agreement. The contractor agrees to maintain books, records, documents, and other evidence of accounting procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement as required by the District. The District or any of their duly authorized representatives shall have access to any of the Contractor's books, documents, or records which are directly pertinent to this specific Agreement. Access to books includes the right to review, audit, inspect, and make excerpts and transcriptions.

The Contractor agrees to maintain all books, records, and other documents relevant to this Agreement for three (3) years after final payment and any person duly authorized by the District shall have full access to and right to examine any of said materials during this period. It is agreed that if an audit, litigation, or other action involving records is initiated before the three (3) year period has expired, the records must be retained until all issues arising out of such actions are resolved, or until a three (3) year period has passed, whichever is later.

Section Thirteen

TIME OF THE ESSENCE – Since the contract concerns a necessary public service, the provisions of the contract relating to the daily schedule and regulations that may be promulgated by the Board are of the essence of the contract. Accordingly, Contractor shall prosecute the work diligently to assure adherence to the schedules.

Section Fourteen

ASSIGNMENT OF CONTRACT – Contractor agrees not to assign this contract, or any interest in the contract, without the prior approval in writing of the Board of Trustees.

In the event of rationing of any product or commodity due to a national emergency, the Contractor shall not allocate any portion of the rationed product or commodity earned as a result of the Agreement to any other party without the express written approval of the District. Should it become necessary to curtail Contractor's services, either in whole or in part, it shall be the sole and exclusive right of the District to direct the Contractor in any resultant reduction in the service, including the elimination of routes and/or rerouting of existing routes.

- 14.1 **Independent Contractor** – Contractor is and shall be at all times be deemed to be an independent contractor and shall be wholly responsible for the manner in which it performs the services required of it by the terms of the Agreement. Nothing herein contained shall be construed as creating the relationship of employer and employee, principal and agent, between the District and Contractor or any of Contractor's agents or employees. Contractor assumes exclusively the responsibility for the acts of its employees as they relate to the services to be provided during the course and scope of their employment. Contractor, its agents, and employees, shall not be entitled to any rights or privileges of District employees and shall not be considered in any manner to be District employees. District shall be permitted to monitor the activities at any time to determine compliance with the terms of this agreement.

Section Fifteen

FAILURE OF OPERATION – In the event that Contractor fails to operate any route because of the failure of equipment or personnel, the amount of payment for the route may be deducted from the following month's payment at the contracted rate per mile.

It is agreed by the Contractor and the District that from the nature of the services to be rendered, it is impractical and extremely difficult to fix the actual damage to the District through failure of the Contractor to provide any of the services under this Agreement. Therefore, failure to provide service below 98 percent of the scheduled runs, calculated daily, shall be subject to the following liquidated damages. Buses delivering students more than fifteen (15) minutes late in arriving at the school site without prior approval from the District shall be subjected to the assessment of two hundred (\$200) dollars per day per incident as liquidated damages. Maximum assessment shall not exceed one thousand (\$1,000) dollars per day for liquidated damages for the first five (5) calendar-days of each semester that this Agreement is in force. Such liquidated damages are in addition to any other remedy available to the District.

Section Sixteen

RIGHT TO DECLARE DEFAULT – In addition to any other rights the Board may have, the Board shall have the right to declare Contractor in default and the Agreement subject to termination if:

- a. Contractor fails to adhere to scheduled runs;
- b. Contractor fails in any way to perform properly the work to be done under the Agreement with the District, including prompt notification to the District of late or missed trips;
- c. Contractor becomes insolvent;
- d. Contractor makes an assignment for the benefit of creditors;
- e. A voluntary or involuntary petition in bankruptcy is filed by or against Contractor;
- f. Contractor fails to perform any schedule when notified to do so by the Board;
- g. Contractor shall abandon the work;
- h. Contractor shall refuse to proceed with the work when and as directed by the Board;
- i. Contractor shall without just cause reduce Contractor's working force to a number that, if maintained, would be insufficient, in the opinion of the Board, to carry out the work in accordance with this Agreement;
- j. Contractor shall sublet, assign, transfer, convey, or otherwise dispose of this agreement other than as specified in this agreement;
- k. A receiver or receivers are appointed to take charge of the property of affairs of Contractor;
- l. The Board shall be of the opinion that Contractor has willfully or in bad faith violated any of the provisions of the Agreement;

- m. Any applicable laws have been violated by Contractor or Contractor's agents, servant, or employees;
- n. Any vehicles provided by Contractor are operated in a manner that imperils the safety of the passengers; or
- o. Any vehicles provided by Contractor are not kept clean or in first class mechanical condition.

Failure or refusal of Contractor to perform or do any act therein provided shall constitute a default; it being specifically provided and agreed that time shall be of the essence in the performance of the Agreement.

Before the Board shall exercise its right to declare Contractor in default, it shall give Contractor an opportunity to be heard, on five (5) days notice, at which hearing Contractor may at Contractor's expense, have a stenographer present, provided, however, that a copy of the stenographic notes, if any, shall be furnished to the Board.

Section Seventeen

EXERCISE OF RIGHT TO DECLARE CONTRACTOR IN DEFAULT – The right to declare Contractor in default for any of the grounds specified or referred to in Section 16 shall be exercised by sending Contractor a notice signed by the Chairman or Clerk of the Board, setting forth the ground or grounds on which default is declared.

If the Contractor refuses or fails to perform services as required to provide the District with efficient, safe, and economical transportation services or any separable part thereof, including furnishing adequate equipment, operational two-way radios, and properly trained personnel, or if Contractor should be adjudged as bankrupt; or if Contractor should make a general assignment for the benefit of creditors; or if a receiver should be appointed on account of Contractor's insolvency; or if Contractor should repeatedly or persistently refuse or fail to provide equipment and personnel in quantities required to provide transportation services as herein specified; or Contractor persistently disregards laws, ordinances, or instructions of the District; or is otherwise guilty of a substantial violation of this Agreement; the District may, without prejudice to any other right or remedy, serve written notification upon Contractor of intention to terminate this Agreement. Such notice shall contain the reasons for such intention to terminate, and unless within thirty (30) days after service of such notice the condition or violation shall cease and satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of thirty (30) days cease and terminate. In the event of termination under this paragraph, the District shall secure the required services from another transportation contractor. If the cost to the District exceeds the cost of providing the service pursuant to the Agreement, the excess cost shall be charged to and collected from the Contractor and/or Contractor's sureties, as the case may be. The foregoing provisions are in addition to and not in limitation of any other rights or remedies available to the District.

- 17.1 Force Majeure – The parties to the Contract may be excused from the performance hereunder during the time and to the extent that they are prevented from obtaining or performing the service by Act of God, fire, strike, loss of transportation facilities, lockout, or commandeering of materials, products, plants, or facilities by the government, when satisfactory evidence thereof is presented to the other party, provided that it is satisfactorily established that the nonperformance is not due to the fault of the part not performing.

Section Eighteen

BOARD’S RIGHTS AFTER TERMINATION – After the termination of Contractor’s services for a default under this contract, the Board may:

- a. Employ another contractor or contractors to complete the terms of this Agreement and hold Contractor responsible for any extra or added expense, loans, or damages suffered by the Board;
- b. Buy or lease from Contractor, and Contractor by signing this bid agrees to sell or lease to District, any or all regular service and spare buses and facilities being used by the Contractor at established fair market values.

Section Nineteen

OTHER REMEDIES – That provisions outlined in this agreement as to the rights of the Board after termination shall be in addition to any and all other legal or equitable remedies permissible under law.

Section Twenty

INDEMNIFICATION – Contractor will be required to indemnify Mountain Home School District #193 from any loss that it may sustain from any cause arising out of the performance or lack of performance of this Agreement by Contractor.

20.1 **Insurance and Hold Harmless Requirements**

- A. During the term of this Agreement, Contractor shall carry a comprehensive liability and automobile insurance policy, including products/completed operations, personal injury; broad form property damage; blanket contractual owned, non-owned, and hired automobile liability coverage. The minimum amount of liability coverage shall be 3 times the amounts referenced in the Standards for Idaho School Buses and Operations book. The District and its officers, agents, and employees shall be included on said policy(ies) as additional insured. Contractor shall provide the District a certified copy of such insurance policy(ies) or certificates of insurance indicating such coverage prior to beginning service under this Agreement. The insurance policy(ies) shall include a clause stating that the District shall be notified in writing by the insurance company of any changes in coverage or cancellations not less than sixty (60) days prior to the effective date of such changes or cancellations. In addition, the policy (ies) referred to above shall contain an endorsement stating “Such insurance as is afforded by this policy for the

District and its officers, agents, and employees shall be primary, and any insurance carried by the District, its officers, agents, and employees shall be excess and non-contributory.”

- B. The Contractor shall provide, during the life of this Agreement, workmen’s compensation insurance, including liability coverage in the amount of \$1,000,000 for all employees engaged in work under this Agreement and, in case any of its work is sublet, the Contractor shall require the subcontractor similarly to provide workers’ compensation insurance for all the latter’s employees. Any class of employee or employees not covered by a subcontractor’s insurance shall be covered by the Contractor’s insurance. In case any class of employees engaged in work under this Agreement is not protected under the workmen’s compensation statute, the Contractor shall provide or shall cause a subcontractor to provide, adequate insurance coverage for the protection of such employees not otherwise protected before subcontractor commences work. The contractor shall file with the District, certificates evidencing such insurance protecting workers, and a 30-day notice shall be provided to the District before the cancellation or reduction of any policy of Contractor or subcontractor.

- C. To the fullest extent permitted by law, Contractor agrees to defend, indemnify, and hold harmless the District and its officers, agents, and employees from any and all claims, demands, liabilities, expenses (including attorney fees and costs of defense) arising directly or indirectly out of the Agreement. However, this indemnification shall not apply liability for expense that arose out of the sole negligence of the District. Contractor’s obligation under this paragraph shall commence upon deposit in the United States registered or certified mail of a written notice of claim, demand, or legal proceedings addressed to any of the aforementioned District, Boards, officers, agents, or employees.

Section Twenty-One

REPORT OF ACCIDENT – Any accident involving student transportation shall be reported to Mountain Home School District #193 as soon as possible and not later than thirty (30) minutes from the time of the accident and shall include whether any fatalities or injuries occurred and a generalization of property damage. The school of attendance of any student affected shall be notified by the Contractor as soon as possible and the whereabouts of the student disclosed. Follow-up accident reports shall be made periodically until all the pertinent facts have been reported to the District. A detailed written report must be submitted to the District Office as soon thereafter as possible and not later than five (5) days after the date of the accident. Time is of the essence in the performance of this Agreement.

Section Twenty-Two

TITLES OF PARAGRAPHS – The various titles to the paragraphs in this agreement are used solely for convenience and they shall not be used for the purpose of interpreting or construing any word, clause, paragraph, or subparagraph of this Agreement.

Section Twenty-Three

UNLAWFUL PROVISIONS DEEMED STRICKEN – All unlawful provisions of this Agreement shall be deemed stricken from the Agreement and shall be of no effect. On the application of either party, the unlawful part shall be considered stricken without affecting the binding force of the remainder of the Agreement.

Section Twenty-Four

NON-DISTRICT USE OF BUSES – If the Contractor uses any bus for non-district purposes, said use will not impede the Contractor from complying with and fulfilling the terms of this contract. Any non-district use of the buses by the Contractor will not result in any expense to the District by any reduction in revenue from the State of Idaho. Contractor will make the District whole for any Contractor use of buses for non-student transportation.

Section Twenty-Five

AUTHORIZED SIGNATURE FOR CORPORATION – The undersigned hereby represents and warrants that the corporation is duly authorized to do business and is in good standing in the State of Idaho. The undersigned is duly authorized to act for and bind the corporation.

Section Twenty-Six

COVENANT AGAINST CONTINGENT FEES – The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Agreement to be executed as a result of the Invitation to Bid, upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bonafide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the District shall have the right to terminate any Agreement that may be entered into with Contractor and, in his sole discretion, to deduct from Agreement price of consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or commission fee.

Section Twenty-Seven

TERMINATION ON ACCOUNT OF NON APPROPRIATION OF FUNDS – It is understood and agreed that the District is a government entity and this Agreement shall in no way or manner be construed so as to bind or obligate the District or the State of Idaho beyond the term of any particular appropriation of funds by the Idaho Legislature or the Congress of the United States as may from time to time exist. In the event the Idaho Legislature or the Congress fails, neglects, or refuses to appropriate such funds as may be designated by and enable the District to continue the payment herein, this Agreement shall automatically be terminated, and all future rights and liabilities of the parties hereto shall thereupon cease.

Section Twenty-Eight

ALL LEGAL PROVISIONS INCLUDED – It is the intention of the parties to this Agreement that all legal provisions of law required to be inserted in the Agreement shall be and are inserted in it. However, if by mistake or otherwise, some such provision is not inserted in the Agreement, or is not inserted in proper form, then on the application of either party the Agreement shall be amended so as to strictly comply with the law without prejudice to the rights of either party

under the Agreement. This Agreement shall be governed and interpreted by the laws of the State of Idaho.

In Witness whereof, the Board of Education of Mountain Home School District #193 Elmore County Idaho, acting by Jim Alexander, its Chairman, duly authorized, and contractor have set their signatures and seals at Mountain Home Idaho on the day and year first above written.

OTHER CLARIFICATIONS –

The indirect costs are the costs of the home office of the Contractor. The District has not and will not charge or allocate indirect costs of administration to the transportation operations.

Any aides or riders required on Special Education runs or one-on-one student supervision will be at the expense of the District. No additional labor will be required of the Contractor.

The Contractor will be the preferred vendor for providing Motor Coaches to the District upon request. Price per mile for the Motor Coaches will be competitive with other providers.

Mountain Home School District #193
District

470 North 3rd East, Mtn. Home, ID 83647
Address

Superintendent

May 9, 2013
date

Caldwell Transportation Company
Contractor Corporation

3503 South 10th Avenue, Caldwell Idaho 83605
Address

President / Owner

May 13, 2013
date

Mountain Home School District #193.
Payment Rate Schedule Sheet
Contract 2013-2014

Home to School			
Mileage charge	per mile	\$	3.43
Kindergarten	per mile	\$	3.43
Field trips, competition events, and gifted program	per mile	\$	1.50
Layover costs for motels/meals	per night	\$	Actual Cost
Layover costs for drivers wages	per day	\$	81.00
Shuttles/Layover "In town"	Flat rate	\$	28.55
Maintenance of District owned vehicles	per hour	\$	37.80